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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

STEVEN TONEY,

Plaintiff,

vs.

SUPER PRODUCTS, LLC,

Defendant.

Case No. \_\_\_\_\_ Civ (\_\_\_\_\_)

**COMPLAINT FOR DAMAGES**

For his complaint, Plaintiff, by and through counsel Power & Power Law, LLC, alleges  
as follows:

**Parties and Jurisdiction**

1. This action is a civil action where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States, and jurisdiction arises under 28 U.S.C. § 1332(a)(1).
2. Venue is appropriate under 28 U.S.C. § 1391(b)(2) in the District of Alaska because a

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substantial part of the events or omissions giving rise to the claim occurred in Alaska and a substantial part of personal property, which is subject of this action, is situated in Alaska.

3. At the time of the conduct that forms the basis for Plaintiff's Complaint, Steven Toney, was a resident of Clearwater, Florida, but working in Alaska. Mr. Toney remains a resident of Florida.
4. Defendant Super Products, LLC is incorporated under the laws of Delaware, with its principal office in Dallas, Texas.
5. Defendant is now, and all times mentioned in this complaint was, engaged in the business of designing, manufacturing, distributing, and selling various types of construction equipment including the Supersucker Industrial Vacuum Loader.
6. The injury for which Plaintiff complains occurred within the state of Alaska.

#### **Common Factual Allegations**

7. At all times relevant to this action, Defendant designed, manufactured, distributed and sold a Supersucker Industrial Vacuum Loader, Model No. 567 and Serial Number 1NPCL40X6LD636260 (hereinafter "Supersucker"), to ASRC Energy Services in the state of Alaska.
8. At all times relevant to this action, Defendant so negligently and carelessly designed and manufactured the Supersucker that it was dangerous and unsafe for its intended use.

9. On or about May 1, 2022, Plaintiff was employed by ASRC Energy Services as a driver and/or operator in Prudhoe Bay, Alaska.
10. On or about that date, Plaintiff was at work and preparing the Supersucker for transport. After placing the drip cap onto the hose, Plaintiff raised the boom remotely using the pendant controller. Then, Plaintiff took a step toward the platform stairs when the boom/hose assembly fell onto him and knocked him to the deck of the platform, finally coming to a rest on the platform handrails.
11. An inspection of the product after Plaintiff's injury revealed that clevis pin broke at the hairpin keeper groove resulting in the Supersucker boom falling. The inspection further revealed that one of the hairpin keepers was missing, which allowed the clevis pin to work its way in the bore until the clevis pin failed. If the pin had not broken, eventually it would have worked its way out of the bore resulting in the same issue.
12. As a result, Plaintiff suffered damages, both past and future, including but not limited to physical and psychological injuries, lost earnings, medical expenses, pain and suffering, inconvenience, and loss of enjoyment of life.

### **Claims for Relief**

Plaintiff is entitled to recover damages from defendant based on the theories of liability hereinafter enumerated in Counts I through II, and under such other theories of liability as may be appropriate based upon the facts as alleged herein or as revealed during discovery.

#### **Count I: Design and/or Manufacturing Defect**

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13. Plaintiff incorporates by reference all prior allegations herein.
14. Defendant designed, manufactured, distributed, and sold the Supersucker Industrial Vacuum Loader, Model No. 567 and Serial Number 1NPCL40X6LD636260.
15. The Supersucker differed from the manufacturer's intended result; or the product differed from other units of the same product line.
16. The Supersucker failed to perform as safely as an ordinary consumer would expect when used in an intended or reasonably foreseeable manner.
17. The design legally caused Plaintiff's injury and the benefits of the design did not outweigh the risk of danger inherent in such design.
18. The product Defendant placed into the market was defective when it left Defendant's possession.
19. The defect of the product proximately caused injury to Plaintiff including but not limited to past and future physical and psychological injuries, lost earnings, medical expenses, pain and suffering, inconvenience, and loss of enjoyment of life.

Count II: Negligence

20. Plaintiff incorporates by reference all prior allegations herein.
21. At all times relevant to this action, Defendant had a duty to exercise reasonable care in its design, research, development, manufacture, inspection, marketing, distribution and/or sale of the Supersucker, which Defendant introduced into the stream of commerce, including a duty to ensure that users would not suffer from injuries.
22. At all times relevant to this action, Defendant knew or reasonably should have known

that the Supersucker was unreasonably dangerous and defective when used as directed and designed.

23. As a direct and proximate cause of Defendant's negligence, Plaintiff suffered injury including but not limited to past and future physical and psychological injuries, lost earnings, medical expenses, pain and suffering, inconvenience, and loss of enjoyment of life.

**Prayer for Relief**

WHEREFORE Plaintiff demands judgment for compensatory damages in excess of \$75,000.00 the precise amount to be proven at trial, plus allowable costs, interest, and attorneys' fees.

DATED this 21<sup>st</sup> day of July 2023, at Anchorage, Alaska.

/s/ Whitney Power Wilson  
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